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Notice of Allowability	Application No.	Applicant(s)	
	10/010,908	SMITH ET AL.	
	Examiner	Art Unit	
	Gary Jackson	3731	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 13 December 2004.
2. ☒ The allowed claim(s) is/are 1-30 and 32-38 (renumbered 1-10, 12-37 and 11) respectively.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
 - * Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☒ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☒ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date 5 October 2004.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|---|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____ |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

GARY JACKSON
PRIMARY EXAMINER
GROUP 3300

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with David Jacobson on March 22, 2005.

1. (currently amended) A method for applying a clip to tissue, comprising:

- a) inserting ~~a flexible~~ into a human body an instrument sufficiently flexible to be bent through a 180⁰ path ~~into a human body~~, the instrument loaded with a single filed linear arrangement ~~plurality of surgical clips~~;
- b) advancing a first clip over a first section of layers of the tissue in a direction parallel to the layers;
- c) deforming the first clip so that a portion of the first clip pierces the first section of the tissue;
- d) without removing the instrument from the human body, advancing a second clip over a second section of layers of the tissue in a direction parallel to the layers; and
- e) deforming the second clip so that a portion of the second clip pierces the second section of the tissue.

REASONS FOR ALLOWANCE

The following is an examiner's statement of reasons for allowance: The closest prior art of record is US Patent 6,139,555 to Hart et al. Hart and the art of record fail to teach or suggest the limitations as set forth in the allowed claims. Particularly the prior art fails to teach method steps of providing a flexible clip applier including an outer tubular member, a pair of jaws at the end of the outer tubular member, an inner member extending through the outer tubular member and coupled to the jaws, and a clip-advancing element extending through the tubular member. Creating a large pushing force in excess of 500 grams to advance a clip by providing a compressive force to the outer tubular member to increase its tensile limitation, and providing a force which is compressive to the clip-advancing wire and tensile to the tubular member while maintaining the compressive force on the tubular coil.

Further the prior art fail to teach method steps of inserting a flexible instrument loaded a single filed linear arrangement of clips and a advancing the clips along the above device sufficiently to bend about at least a 180⁰ curved path so as to deform the clips and pierce a section of the tissue upon advancing the clip. The US Patent 6,352,503 to Matsui et al is substantially close to this teaching, however, Matsui lacks teachings and any suggestion for enabling a plurality of clips in a single file linear arrangement and bendable through 180 degree path. Matsui teach a plurality of clips at a distal end of the instrument wherein the clips are tethered to a suture/wire. Matsui fail to teach or suggest a single filed linear arrangement for the clips. See figure 16.

For these reason, the examiner believes the claims are allowable over the art of record.

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Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary Jackson whose telephone number is (571) 272-4697. The examiner can normally be reached on Mon.-Thurs. 7:30 am to 6:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Antoine Nguyen can be reached on (571) 272-4693. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Gary Jackson
Primary Examiner
Art Unit 3731



gj
March 28, 2005